

1 BEFORE THE BOARD OF OIL, GAS AND MINING
2 DEPARTMENT OF NATURAL RESOURCES AND ENERGY
3 IN AND FOR THE STATE OF UTAH

4 * * * *

5	DIVISION OF OIL, GAS AND)	
6	MINING,)	DOCKET NO. 84-040
7)	CAUSE NO. ACT/015/025
8	Petitioner,)	
9)	REPORTER'S TRANSCRIPT
10	vs.)	
11)	
12	CO-OP MINING COMPANY,)	
13)	
14	Respondent.)	

15 * * * *

16 On Thursday, September 27, 1984, commencing at the
17 hour of 5:59 p.m., a hearing was held in the above-entitled
18 matter, in Room 7, Municipal Building, Price, Utah; and said
19 hearing was reported in shorthand by Ronald F. Hubbard, a notary
20 public and certified shorthand reporter in and for the State
21 of Utah (License No. 32).

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1 A P P E A R A N C E S

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3 Board Members

4 Gregory P. Williams, Chairman

James W. Carter

5 John M. Garr

Charles R. Henderson

6 Richard B. Larsen

Constance R. Lundberg

7 E. Steele McIntyre

8 Staff Members

9 Dr. Dianne R. Nielson, Director

Ronald J. Firth, Associate Director for Oil and Gas

10 John R. Baza, Petroleum Engineer

Marjorie L. Larson, Administrative Assistant

11 Barbara Roberts, Assistant Attorney General of the State of Utah

1 PRICE, UTAH, THURSDAY, SEPTEMBER 27, 1984, 5:59 P.M.

2 * * * *

3 CHAIRMAN WILLIAMS: Can we go on the record in
4 Cause No. 84-040, which is the matter of Co-op Mining Company.

5 DIANNE R. NIELSON

6 called as a witness on behalf of the Division,
7 being first duly sworn, testified as follows:

8 CHAIRMAN WILLIAMS: Dr. Nielson has been sworn.
9 Would you proceed.

10 DR. NIELSON: Mr. Chairman, my name is Dianne Ruth
11 Gerber Nielson. I am Director of the Division of Oil, Gas
12 and Mining.

13 The Division wishes to present information of an em-
14 ergency nature before the Board at this time concerning the
15 order which was issued by the Board of Oil, Gas and Mining on
16 July 31, 1984, directing Co-op Mining Company to cease mining
17 operations at their Bear Canyon Mine until the Division had
18 determined that their application for a permit to mine coal was
19 determined complete.

20 On September 12, 1984, Barbara Roberts, the Assistant
21 Attorney General representing the Division, sent a letter to
22 Mr. Wendell Owens concerning removal of coal from stockpiles
23 at the Bear Canyon Mine. I will submit this letter as an
24 exhibit.

25 In summary of the letter, it essentially indicated



1 that loading and hauling of coal did represent in the deter-
2 mination of the Assistant Attorney General a mining activity.
3 Although we had received information from Co-op Mining Company
4 that they had indeed sold the coal on their stockpile to their
5 trucking company, and in my conversations, Wendell Owens had
6 indicated this to me, that in fact that did not give them
7 authority or permission to be loading or hauling that, or allow-
8 ing that coal to be hauled.

9 In the letter, they were directed to cease those
10 operations.

11 An inspector for the Division of Oil, Gas and Mining,
12 Ken Wyatt, went down to the property this morning, did not
13 enter through the gates, but actually went up on the hillside
14 overlooking the property and reports that while there is no
15 indication that underground mining activities are indeed occur-
16 ring, based on the fact that there is no coal coming out on the
17 conveyor belt at this time, that in fact there were three
18 trucks, an orange dump truck, a pickup truck, and a flatbed
19 truck which were loaded with coal. Mr. Wyatt has made notes
20 on this, taken pictures, and has one license plate to verify
21 the occurrences.

22 In the past we have been informed by Co-op that they
23 are only loading coal for their employees. However, one of these
24 trucks was noted to have left for Fairview.

25 At this time the Division is requesting that the



1 Board issue an order to Co-op to cease the loading and removal
2 or transport of coal from their site at the Bear Canyon Mine
3 based on the information provided.

4 CHAIRMAN WILLIAMS: I thought we already had.

5 MS. ROBERTS: A complaint. That is pursuant to 40-
6 6-11(3), saying the Board may issue a complaint order within a
7 period--require them to comply within a period not to exceed
8 30 days. At the end of that period, we may go to court with
9 it. And so it seems like it's a condition.

10 CHAIRMAN WILLIAMS: Does that provision deal--

11 MR. GARR: It's a violation of our original order.

12 MS. LUNDBERG: They are in violation of an order now.

13 MR. GARR: That's right.

14 MS. LUNDBERG: The way the statute is written, they
15 get two shots. First they get an order. Then, if they don't
16 comply with that order, we issue a compliance order. If they
17 don't comply with the compliance order, which is an order which
18 essentially says, "We really mean it," then we can go to court.
19 But you have to go through the second step and issue the
20 second order before you can go to court.

21 CHAIRMAN WILLIAMS: That's mandatory?

22 MS. LUNDBERG: It's my understanding that it is.

23 MS. ROBERTS: That's my understanding of it also.

24 MR. GARR: Let's do whatever we legally have to do,
25 then.



1 MS. LUNDBERG: Mr. Chairman, I move that we issue
2 a compliance order to Co-op directing them to immediately comply
3 with the earlier order of the Board and cease all loading and
4 hauling of coal from the Bear Canyon Mine.

5 MR. LARSEN: Second.

6 (Discussion off the record.)

7 MS. LUNDBERG: To cease and desist immediately upon
8 receipt of this order.

9 CHAIRMAN WILLIAMS: Where is there in the coal law
10 about this? What is there in the coal law?

11 MS. ROBERTS: I don't think it discusses it at all.

12 CHAIRMAN WILLIAMS: With all respect to those that
13 made the motion and the second, I think it might be appropriate
14 to take a little while and see if we can take another look at
15 the statute.

16 MR. LARSEN: Do you want to withdraw your motion?

17 MS. LUNDBERG: We can just table it.

18 CHAIRMAN WILLIAMS: Let's recess until tomorrow
19 morning.

20 DR. NIELSON: Mr. Chairman, could I offer Exhibit 1
21 for the record.

22 CHAIRMAN WILLIAMS: What is it?

23 DR. NIELSON: This is the letter to Mr. Wendell
24 Owens from the Assistant Attorney General dated September 12,
25 1984, or a copy of this.



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CHAIRMAN WILLIAMS: We will receive that.

(Exhibit 1 was received in evidence.)

CHAIRMAN WILLIAMS: Let's go off the record.

(Discussion off the record.)

CHAIRMAN WILLIAMS: We will recess until 8:30 tomorrow morning.

(at 6:05 p.m. the hearing ended)

(at 6:05 p.m. the hearing ended.)



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C E R T I F I C A T E

State of Utah)
) ss
County of Salt Lake)

I, Ronald F. Hubbard, do hereby certify that I am a
certified shorthand reporter in and for the State of Utah;
that I reported in shorthand the foregoing proceedings; that
that this transcript is a full, true, and correct record of
said proceedings.

Dated at Salt Lake City, Utah, this 12th day
of October, 1984.

Ronald F. Hubbard
Ronald F. Hubbard
Certified Shorthand Reporter
License No. 32

